IN THE HIGH COURT OF UTTARANCHAL, NAINITAL

Civil Writ Petition No.579 (S/S) of 2006

Constable No. 40926 Shyam Narayan
S/o Sri Chandrika Prasad
R/o H.No. 131 Indra Colony Gali No.2
Rudrapur, District Udham Singh Nagar
Presently posted as Constable in
31 Battalion P.A.C. Rudrapur.
District Udham Singh Nagar. ..... Petitioner

Versus

1. Union of India through its Chairman, Central Advisory State Committee, State Advisory Committee Jwahar Lal Nehru Stadium, Gate No. 31 Lodhi Road, New Delhi- 110 003.
2. State of Uttaranchal through Principal Secretary (Home) Government of Uttaranchal, Dehradun.
3. Commissioner State Reorganization Uttaranchal Government Vikas Bhawan, Lucknow (U.P.)
4. State of Uttar Pradesh through Principal Secretary (Home), U.P., Lucknow.
5. Inspector General of Police (Karmik), Police Head Quarter, State of Uttaranchal, Dehradun.
6. Commandant 31 Battalion P.A.C., Rudrapur District Udham Singh Nagar. ..... Respondents

27.04.2006

Sri Bipin Mohan Pingal, learned counsel for the petitioner,
Smt. Anjali Bhargava, learned counsel for the respondent no. 1 & 3,
learned standing counsel for the respondent no.2,5 & 6 and
Smt. Beena Pandey, learned counsel for the respondent no.4.

Hon'ble M.M. Ghildiyal-J

Heard Sri Bipin Mohan Pingal, learned counsel for the petitioner, Smt. Anjali Bhargava, learned counsel for the respondent no. 1 & 3, learned standing counsel for the respondent no.2,5 & 6 and Smt. Beena Pandey, learned counsel for the respondent no.4.

By means of the present writ petition, petitioner has prayed for following relief : -

i. Issue a writ, order or direction in the nature of certiorari calling the record for impugned order by which the petitioner has been finally allocated to the State of U.P. against his option.

ii. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents not to relieve the petitioner from State of Uttaranchal to State of U.P.

iii. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents not to interfere in the services of the petitioner as he has opted for retaining his services in State of Uttaranchal and respondents be directed to finally allocate the petitioner retaining his services in State of Uttaranchal.

iv. Issue any other order or direction, which be deemed fit and proper under the facts and circumstances of the case in favour of the petitioner.

v. Award the cost of the writ petition to the petitioner.

The submission of the Learned Counsel for the petitioner is that petitioner is a permanent resident of State of U.P. He is working as Constable and posted as such in 31 Battalion P.A.C. Rudrapur, District Udham Singh Nagar. He has further submitted that at the time when the options were invited, he opted for State of Uttaranchal. However, respondents have finally allocated to him for State of U.P.

I find no merit to interfere in the matter at this stage.

Learned Counsel for the petitioner has drawn my attention to the G.O. dated 15.09.2004 issued by

Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training wherein in respect of mutual transfer cases, the said G.O. states as under:

"A large number of representations have been received from personnel requesting for consideration of their mutual transfer will another consenting State Service personnel. Since the Central Government has already issued final allocation orders, it finds no reason to entertain such requests. However, it is open to successor State Governments to consider requests of mutual transfer based on broad consensus arrived between the State Governments inter alia either defining the terms and conditions.

In view of the aforesaid circular issued by Government of India, it is provided that if petitioner makes a representation before Competent Authority for mutual transfer on the terms and conditions mentioned in the aforesaid circular, it is expected that the Competent Authority shall consider the case of the petitioner in accordance with law and shall pass final order on the representation of the petitioner within a period of two months from the date of receipt of representation.

With these directions, the writ petition is finally disposed of.

(M.M Ghildiyal, J)

27.04.2006
Jain